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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,286	07/09/2003	Edward R. Beadle	51155CON1(GCSD-1005 9905 H6808	
27975	7590 04/17/2006		EXAM	INER
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE			FERRIS, DERRICK W	
P.O. BOX 3791			ART UNIT	PAPER NUMBER
	FL 32802-3791		2616	

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/616,286	BEADLE ET AL				
Office Action Summary	Examiner	Art Unit				
	Derrick W. Ferris	2616				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be time rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 20 Fe	ebruary 2004	•				
· · · · · · · · · · · · · · · · · · ·	action is non-final.					
	Since this application is in condition for allowance except for formal matters, prosecution as to the ments is					
<i>,</i> —	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)⊠ Claim(s) <u>32-36</u> is/are pending in the application	1					
4a) Of the above claim(s) is/are withdraw	•					
5) Claim(s) is/are allowed.		·				
6)⊠ Claim(s) <u>32-36</u> is/are rejected.						
7)☐ Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or	r election requirement	:				
Application Papers	•	·				
9)☐ The specification is objected to by the Examiner.						
10)⊠ The drawing(s) filed on <u>09 July 2003</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
<u> </u>	priority under 35 LLS C & 110(c)	(d) or (f)				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
	1. Certified copies of the priority documents have been received.					
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)		•				
1)	4)					
2) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)		atent Application (PTO-152)				
Paper No(s)/Mail Date 6) Other:						

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DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In particular, the practical application of the claimed subject matter is not clearly defined by the claim since the claim merely recites a method of storing and reading data from memory. As such, the claimed invention is computer-related. Specifically, the descriptive material is functional and relates to non-statutory subject matter such that the functional change to the computer is not clear.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 32 and 33 are rejected on the ground of nonstatutory double patenting over claims 1 and 2 respectively of U. S. Patent No. 6,606,317 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a method of storing and reading information in a memory such that the differences between the claims would have been obvious to one skilled in the art since data is a packet.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick W. Ferris

Examiner

Art Unit 2616

DERRICK FERRIS
PATENT EXAMINER

- 4/14/04

DWF